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**REPORT OF THE COMMISSION ON THE ACTIVITIES
OF THE AU PANEL OF THE WISE AND THE
APPOINTMENT OF NEW MEMBERS**

2010
MAKE PEACE HAPPEN

REPORT OF THE COMMISSION ON THE ACTIVITIES OF THE AU PANEL OF THE WISE AND THE APPOINTMENT OF NEW MEMBERS

I. INTRODUCTION

1. This report is submitted in pursuance of the relevant provisions of the Protocol Relating to the Establishment of the Peace and Security Council of the African Union (AU). The report provides a summary of the activities undertaken by the Panel since July 2009. It concludes with observations on the achievements made and the challenges encountered, as well as with recommendations on the way forward.

II. BACKGROUND

2. According to Article 11 of the Protocol Relating to the Establishment of the Peace and Security Council (PSC) of the African Union, the Panel of the Wise is mandated to support the efforts of Council and those of the Chairperson of the Commission, particularly in the area of conflict prevention, at their request or on its own initiative. In this respect, and based on the Modalities for its Functioning, as adopted by Council at its 100th meeting held on 12 November 2007, the Panel may, *inter alia*, advise Council and/or the Chairperson of the Commission on matters relating to peace and security; carry out fact-finding missions as an instrument of conflict prevention; encourage parties, where appropriate, to engage in political dialogue and promote confidence-building measures. The Panel may also pronounce itself on any issue relating to the promotion and maintenance of peace, security and stability in Africa.

3. The Panel is composed of five highly respected African personalities from various segments of society who have made an outstanding contribution to the cause of peace, security and development on the continent. They are selected by the Chairperson of the Commission after consultation with the Member States concerned, on the basis of regional representation, and appointed by the Assembly to serve for a period of 3 years.

4. The current Panel members were appointed for a period of three years by the 10th Ordinary Session of the Assembly of the Union, held in Addis Ababa from 29 to 30 January 2007. These are: Ahmed Ben Bella, former President of Algeria, representing the North African region; Miguel Trovoada, former President of Sao Tomé and Príncipe, representing the Central African region; Salim Ahmed Salim, former Secretary-General of the Organization of African Unity, representing the East African region; Brigalia Bam, Chairperson of the Independent Electoral Commission (IEC) of South Africa, representing the Southern African region; and Elisabeth Pognon, former President of the Constitutional Court of Benin, representing the West African region. The Panel was inaugurated on 18 December 2007, in Addis Ababa. On that occasion, the Panel elected

Mr. Ahmed Ben Bella as its Chairperson, and has since then met eight times: 1st meeting in Addis Ababa, on 18 February 2008; 2nd meeting in Addis Ababa, from 17 to 18 July 2008; 3rd meeting in Algiers, from 13 to 15 October 2008; 4th meeting in Nairobi, from 28 to 29 November 2008; 5th meeting in Addis Ababa, from 5 to 6 March 2009; 6th meeting in Tripoli, from 6 to 7 June 2009; 7th meeting in Addis Ababa, from 9 to 10 November 2009; and 8th meeting in Kinshasa, on 21 May 2010.

III. ACTIVITIES OF THE PANEL

5. In order to effectively discharge its mandate, the Panel agreed that its activities would revolve around the following:

- (i) deliberations among its members, including formal meetings and informal consultations;
- (ii) collaboration and consultations with the relevant organs of the AU, including Council and the Chairperson of the Commission;
- (iii) engagement in countries and regions affected by conflicts; and
- (iv) consideration of key thematic issues related to conflict prevention and peace-building in Africa.

6. During the period under review, the Panel undertook a range of activities falling under the categories mentioned above.

a) Formal meetings of the Panel of the Wise

7. According to the Modalities for its Functioning, the Panel shall meet as often as the circumstances may require and, in any event, at least three times a year or at any time at the request of Council or the Chairperson of the Commission. In between meetings, the Panel shall maintain regular consultations among its members through appropriate technical means, to facilitate the effective discharge of its mandate. During the period under review, the Panel held its 7th and 8th meetings in Addis Ababa and Kinshasa, from 9 to 10 November 2009, and on 21 May 2010, respectively.

8. At its 7th meeting, the Panel reviewed the state of peace and security on the Continent. While welcoming the progress made in some parts of the continent, the Panel expressed deep concern at the ongoing conflicts and violence facing many regions and countries in Africa. The Panel encouraged the PSC and the Chairperson of the

Commission to pursue and intensify their efforts in furtherance of peace, security and stability on the continent. The Panel reviewed its work programme for the rest of the year and for 2010, and agreed on the missions that its members would undertake in various parts of the continent, to further efforts towards peace, security and stability. The Panel expressed its full commitment to actively contribute to the attainment of the goals of the “2010: Year of Peace and Security in Africa”.

9. At its 8th meeting, the Panel reviewed the conflict situations in Southern Africa, the Great Lakes region, as well as in West and Central Africa. The review of the state of peace and security in Africa revealed a generally contrasting situation, marked by progress in some countries and regions and persisting difficulties in others. The Panel expressed its support to the ongoing efforts by the AU and the Regional Mechanisms for Conflict Prevention, Management and Resolution aimed at resolving existing crises and consolidating peace where it has been achieved. The Panel appealed to all parties concerned in the various conflict situations on the continent to display the necessary political will and commitment to facilitate the achievement of peace.

b) Thematic reflection on issues relevant to conflict prevention

10. The Panel’s mandate states that it will “pronounce itself on issues relating to the promotion and maintenance of peace, security and stability in Africa”. In this respect, and as part of its work programme, the Panel agreed that it will, every year, identify a particular theme relevant to conflict prevention and/or peace building that it may wish to highlight, in order to stimulate a policy debate and/or raise awareness on themes related to conflict prevention and peace building. It is against this background that the Panel initiated a thematic reflection on election-related disputes and conflicts. This reflection took place in the context of the violence that followed the Kenyan presidential election of 27 December 2007 and subsequent decisions adopted by the Assembly and the PSC, in January and March 2008, respectively. The Panel submitted a report on ‘Strengthening the Role of the African Union in the Prevention, Management and Resolution of Election-related Disputes and Violent Conflicts in Africa’ [Assembly/AU/6(XIII) Annex II] to the 13th Ordinary Session of the Assembly, held in Sirte, Libya, from 1st to 3 July 2009. In turn, the Assembly adopted decision Assembly/AU/Dec.254(XIII) Rev.1, in which it requested the Commission to take all necessary steps to implement the recommendations of the Panel and to report to it regularly on the progress made in this respect. At its 7th meeting, and on the basis of the progress report presented to it, the Panel stressed the need to finalize the elaboration of the plan of action on the implementation of its recommendations.

11. The Assembly may recall that, at its 4th meeting, the Panel decided to focus its attention in 2009 on the problem of fighting impunity and its relationship to truth, justice

and reconciliation in Africa. This choice was informed by the renewed debate on this topic as illustrated, among others, by the situations in Northern Uganda, with the controversy over discussions with Joseph Kony, the leader of the Lord's Resistance Army, in view of his indictment by the ICC, and Darfur, with the application by the ICC Prosecutor for an arrest warrant against the President of the Republic of the Sudan. The Panel also had in mind the problems posed by the application of the principle of universal jurisdiction and relevant AU decisions on the matter.

12. In order to facilitate this reflection and review the draft report prepared by a team of consultants, the Commission convened an experts' workshop in Monrovia, Liberia, on 28 and 29 May 2009. The report, entitled "Non-impunity, Truth, Justice, and Reconciliation in Africa: Opportunities and Constraints", focuses on African experiences in addressing the issue of impunity, the existing AU and international instruments, as well as the consequences and challenges of international interventions. The report includes a number of recommendations directed to the Panel, as well as to the Commission, in order to strengthen African instruments for justice and reconciliation and address the challenges of mediating peace in Africa. During its 7th meeting, the Panel further reviewed the expert's report, which is now under finalization for submission to the AU policy organs in January/February 2011.

13. For the year 2010-2011, the Panel, at its 7th meeting, decided to focus its reflection on the issue: "Women and Children in Armed Conflicts". This choice was informed by the empirical evidence accumulated over decades confirming that women and children suffer most wherever and whenever there is a breakdown of social order, rule of law and ascendance of violence. Women are often subjected to gender based violence, often becoming the single heads of households, displaced/ refugees in dehumanizing camps. This choice is also linked to the thematic focus of the Year of Peace and Security during which concerted efforts will be made to draw attention to the theme of "Women, Youth and Peace". A focus on women and young people brings into sharp focus the wider human security dimensions of the peace and security agenda. Indeed, conflicts in Africa cannot be dissociated from the challenges of reducing poverty and promoting health, development and education, especially in post-conflict situations.

14. The first draft of the report on this theme prepared by a team of experts was discussed during an expert's workshop in Kinshasa, on 19 – 20 May 2010. Following this workshop, the Panel of the Wise agreed to undertake a number of visits, with the assistance of the Commission and a team of experts, to enable it finalize its report to be submitted to the Ordinary Session of the Assembly in 2011.

c) **Consultations with the Peace and Security Council and the Chairperson of the Commission**

15. In line with the provisions of Article 11 (5) of the PSC Protocol and the Modalities for its Functioning, the Panel shall, without prejudice to its independence, maintain regular contacts with Council and the Chairperson of the Commission, as well as with the Chair of the Union, and keep them fully informed of its activities for the purpose of ensuring close coordination and harmonization. During the period under review, the Panel maintained regular consultations with the Commission. More specifically, it should be noted that the Commissioner for Peace and Security attended the 7th and 8th meetings of the Panel, providing updates on the state of peace and security on the continent and the efforts being made by the Commission. In addition, the Commission has provided the support required for the conduct of the thematic reflections initiated by the Panel. During the period under review, there have been no consultations between the Panel and the PSC.

IV. OBSERVATIONS

16. As indicated above, the Panel is an important component of the African Peace and Security Architecture (APSA). Its mandate in the area of conflict prevention makes it central to the AU's efforts to promote peace, security and stability in the continent.

17. Since its operationalization, the Panel has played a commendable role in support of my efforts and those of the PSC. In this respect, I would like to highlight the thematic reflections initiated by the Panel on topics relevant to conflict prevention. The recommendations made by the Panel on election-related violence and conflict are far reaching and of particular relevance. Their implementation will go a long way in helping to consolidate the democratization processes on the continent, prevent the violence and tensions that have more often than not marred electoral processes, and create conditions conducive for the promotion of sustainable peace. Equally important is the reflection on justice, impunity and reconciliation. As we endeavor to seek solutions to the conflicts that continue to tear apart our continent and which, result quasi systematically in massive violations of human rights, we need to pay due attention to combating impunity, in line with the provisions of the Constitutive Act, while ensuring that justice, reconciliation and peace are pursued in a mutually reinforcing way. I look forward to the report of the Panel on this issue.

18. The role played by the Panel in steering this kind of reflection needs to be strengthened. This implies that the Panel, with the support of the Commission and other

actors, actively engage Member States and other stakeholders, to disseminate its recommendations, mobilize the required political will and support and, as appropriate, ensure a monitoring role, including through the publication of reports on steps taken at national, regional and continental levels.

19. While the Panel has played an important role in steering thematic reflections on issues relevant to conflict prevention, it has yet to fully engage in operational prevention of conflicts. It is worth recalling that, in the Modalities for its Functioning, the Panel, in coordination with the PSC and the Chairperson of the Commission, and in support of, and complement to, their efforts, is required to:

- a) facilitate the establishment of channels of communication between the PSC and the Chairperson of the Commission, on the one hand, and parties engaged in a dispute, on the other hand;
- b) carry out fact-finding missions as an instrument of conflict prevention;
- c) conduct shuttle diplomacy between parties to a conflict in cases where parties are not ready to engage in formal talks;
- d) encourage parties, where appropriate, to engage in political dialogue, adopt confidence-building measures, and carry out reconciliation processes, and facilitate such efforts, where appropriate;
- e) assist and advise mediation teams engaged in formal negotiations;
- f) assist and advise parties on how to resolve disputes related to the implementation of peace agreements, etc.

20. Due to a variety of constraints, the Panel has not been able to fully discharge the above-mentioned responsibilities. For one, the Panel's size – 5 members – is such that it cannot play the required role in all the situations warranting its attention. This constraint is compounded by the fact that the Panel members are not engaged on a full time basis. They do have other commitments that are also equally demanding on their attention and time. This has meant that, in some situations, it has not been possible to undertake the missions that the Panel has been planning to contribute to diffusing tensions, facilitating dialogue among conflicting parties, and creating conditions conducive to the successful implementation of peace processes.

21. Against this background, there is need to enhance the capacity of the Panel to enable it play a more pro-active role in operational prevention. In this respect, I intend to

put in place a structure called “Friends of the Panel”. This structure will be composed of five to ten eminent African personalities drawn from the different regions of the continent. Their role would be to support the Panel in its preventive efforts, by undertaking visits to potential conflict areas, carrying out fact-finding missions, assisting and advising mediation teams and engaged in formal negotiations. They will also assist the Panel in undertaking follow-up on the recommendations arising from the thematic reflections initiated on issues relevant to conflict prevention. The “Friends” will attend all the meetings of the Panel and will be accorded the same privileges as the members of the Panel.

22. It is my strong view that this arrangement will significantly enhance the effectiveness of the Panel by tapping into the reservoir of experience and wisdom at our disposal on this continent. It has the added advantage of not running contrary to the provisions of the PSC Protocol limiting the membership of the Panel to five. Furthermore, the arrangement will facilitate the appointment process, as new members could be drawn from the “Friends”, while also ensuring continuity in the sense that outgoing members of the Panel could be reappointed as “Friends”. I will, in due course, inform Member States of the composition of the “Friends”.

23. In my report on the activities of the Commission covering the period July to December 2009, submitted to the 16th Ordinary Session of the Executive Council, held in Addis Ababa from 25 to 29 January 2010 – [Document EX.CL/565(XVI)], I indicated that, in light of Article 11(2) of the PSC Protocol, and given the significant lapse of time between the date of appointment and that of the inauguration of the Panel, the Commission was of the view that the guiding principle should be the effective completion of the 3 year-term for which the Panel members were elected. I further indicated that I intended to make use of the following months to take stock of the experience accumulated by the Panel and conduct consultations on the way forward, with the understanding that I would report to the next Summit for the Assembly’s decision on reappointment or otherwise, as well as on new arrangements to enhance the effectiveness of the Panel.

24. As the mandate of the current Panel members is coming to an end on 17 December 2010, the present session of the Assembly is expected to appoint new members. At the time of finalizing this report, I was engaged in consultation to identify candidates for consideration and appointment by the Assembly. I intend to recommend retention of two members of the current Panel, to ensure the much-needed continuity, while bringing in three new personalities. The required gender balance will be maintained. The list of recommended candidates will be communicated to Member States through an addendum to this report.

25. In the meantime, I would like to express my appreciation to all the current members of the Panel for their commitment and contribution to the quest for peace, security and stability in our continent. I take this opportunity to, once again, commiserate with former President Ahmed Ben Bella on the untimely demise of his wife and extend my condolences to Justice Elisabeth Pognon, who lost her husband and was later on involved in a horrific car accident which she, fortunately, survived. I wish them both Godspeed from their trials and tribulations.

“We are determined to deal once and for all with the scourge of conflicts and violence on our continent, acknowledging our shortcomings and errors, committing our resources and our best people, and missing no opportunity to push forward the agenda of conflict prevention, peacemaking, peacekeeping and post-conflict reconstruction. We, as leaders, simply cannot bequeath the burden of conflicts to the next generation of Africans.” (Paragraph 9 of the Tripoli Declaration of 31 August 2009).

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